

Patrick J. Murphy, WSB No. 7-1779
Scott C. Murry, WSB No. 7-4896
WILLIAMS, PORTER, DAY & NEVILLE, P.C.
159 N. Wolcott, Ste. 400
P.O. Box 10700 (82602)
Casper, WY 82601
Email: pmurphy@wpdn.net
smurray@wpdn.net

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

BCB CHEYENNE LLC d/b/a BISON)
BLOCKCHAIN, a Wyoming limited liability)
Company .)
Plaintiffs)
)
v.) Civil No. 23-CV-79
)
MINEONE WYOMING DATA CENTER,)
LLC, a Delaware limited liability company;)
MINEONE PARTNERS LLC, a Delaware)
limited liability company; TERRA CRYPTO)
INC., a Delaware corporation; BIT ORIGIN,)
LTD, a Cayman Island Company;)
SONICHASH LLC, a Delaware limited)
liability company; and JOHN DOES 1-20,)
related persons and companies who control)
or direct some or all of the named Defendants,)
Defendants.)

**PLAINTIFF'S BCB CHEYENNE LLC'S EXPEDITED MOTION
TO EXTEND CERTAIN BRIEFING DEADLINES BY THREE WEEKS,
AS EARLIER AGREED BY ALL PARTIES**

COMES NOW Plaintiff BCB Cheyenne LLC d/b/a Bison Blockchain ("BCB"),
through its counsel Patrick J. Murphy of WILLIAMS, PORTER, DAY & NEVILLE, PC, and

hereby files this Expedited Motion for the Court to quickly extend the briefing deadlines the Parties *earlier agreed and stipulated* should be extended by three weeks, but to which the MineOne Defendants (but not Bit Origin or SonicHash) now seem to be withdrawing their earlier agreement and motion. This is an Expedited Motion because the current deadline for filing dispositive motions is tomorrow, October 4, 2024 and, for the reasons articulated below, the Parties and their counsel are in no position to file their complete and best-prepared dispositive motions by tomorrow. In support of this Expedited Motion, BCB and its counsel show the Court as follows:

1. This Expedited Motion is being filed with the Court at the same time BCB is filing its companion *Expedited Motion for an Extension of Time to File an Over-Length Response to the MineOne Defendants' Motion to Compel Discovery and for Sanctions* ("First Expedited Motion"). All of the facts and arguments in BCB's *First Expedited Motion* are incorporated by reference in this *Second Expedited Motion*. These two Expedited Motions are connected and related to each other.
2. The specific relief BCB is asking for with this *Second Expedited Motion* is for the Court to quickly enter its Order extending the following case deadlines by three weeks, specifically:
 - A. The October 4, 2024 deadline to file dispositive motions to October 25, 2024;
 - B. The October 18, 2024 deadline to file Responses to all dispositive motions to November 8, 2024;
 - C. The October 25, 2024 deadline to file any Reply to any dispositive motions to November 15, 2025;

- D. The October 18, 2024 deadline to file other (nondispositive) motions to November 9, 2024;
- E. The November 15, 2024 deadline to file the Parties' Joint Pretrial Memorandum to December 6, 2024;
- F. The November 8, 2024 deadline to file any motions in limine to November 29, 2024;
- G. The November 22, 2024 deadline to file any Responses to any motions in limine to December 13, 2024; and
- H. The December 2, 2024 deadline to file any Replies to any motions in limine to December 22, 2024.

3. On September 10, 2024, the MineOne Defendants filed their *Motion to Modify the Court's April 25, 2024 Scheduling Order* where they asked the Court to push back, by three weeks, the case deadlines articulated in Paragraph 2 above [See ECF 344 at Page 11 of 14].

4. Defendants Bit Origin and SonicHash joined with the MineOne Defendants in asking that the April 25, 2024 Revised Scheduling Order be further revised to ask that these briefing deadlines be extended by three weeks.

5. Then, in its September 24, 2024 *Response* to the MineOne Defendants' *Motion to Modify*, BCB and its counsel **agreed** that these briefing deadlines should be extended three weeks by the Court [ECF 372 at Pages 2 of 13 and 11 of 13]. BCB said:

Plaintiff BCB **agrees** that each of the following existing deadlines should be moved back by three weeks: (i) Dispositive motions: October 4, 2024; (ii) Responses to dispositive motions and filing of all other pretrial motions: October 18, 2024; (iii) Replies to dispositive motions: October 25,

2024; (iv) Joint Final Pretrial Memorandum: November 8, 2024; and (v) Motions in Limine: November 8, 2024.

All Parties ***also agree*** to keep the January 27, 2025 trial date. And BCB ***agrees*** with the MineOne Defendants' representations that: (1) "On September 9, 2024, Judge Hambrick ordered that the [new] deadline for taking depositions be extended [from September 17, 2024] until September 30, 2024," and (2) "**MineOne will conduct the depositions of the witnesses that have been identified by the Court's September 30, 2024 deadline.**" [ECF 344 at Page 4 of 14] (emphasis added). This is what should happen, and BCB stipulates to it.

Id. at Page 2 of 13 (emphasis in original).

6. Then, on September 26, 2024, the Court heard the Parties' oral arguments on MineOne's *Motion to Modify*. The Court heard Bit Origin and SonicHash's concurrence with pushing back these deadlines three weeks, and Plaintiff BCB's agreement and stipulation these case deadlines should be pushed back three weeks. *See* Transcript of the Court's 9/26/24 Motion hearing. At these oral arguments, all counsel asked the Court to push back these deadlines by three weeks. *Id.* While the Parties disagreed on most of the substantive matters in their September 26 oral arguments, they ***all agreed*** the Court should extend/push back these specific case deadlines by three weeks.

7. The Court has not yet entered any Order on MineOne's *Motion to Modify* the April 25, 2024 Revised Scheduling Order. The Court's decision on this *Motion to Modify* remains under advisement.

8. Good cause and good reasons existed then, and still exist, for the Court to quickly enter its Order pushing back these specific case deadlines (articulated above in Paragraph 2) by three weeks.
9. First, the Parties and their counsel do not yet have the needed facts and evidence to fully and meaningfully present their complete and well-written dispositive motions to the Court by tomorrow, October 4, 2024. BCB needs the deposition testimony of MineOne's Jiaming Li and Haku Du, and BCB has specifically asked for these two depositions, but MineOne has not provided available dates for either Dr. Li or Ms. Du for their depositions. On September 9, 2024, Judge Hambrick specifically ordered MineOne to provide BCB with Dr. Li's and Ms. Du's available dates for their deposition "as soon as possible" [ECF 339]. ("MineOne's counsel to provide availability dates for the depositions of Haku Du and Dr. Jiaming Li as soon as possible"). But MineOne has never complied with Judge Hambrick's 9/9/24 discovery Order. MineOne has refused to provide BCB with *any* dates for depositions of these two central fact witnesses. BCB cannot meaningfully write its dispositive motions without these two MineOne witnesses' testimony.
10. Second, BCB took the deposition of MineOne's Erick Rengifo¹ most of the day on Friday, September 27. But BCB's counsel has not yet received Dr. Rengifo's deposition transcript from the court reporter, and BCB's counsel has not had any

¹ Dr. Rengifo and Dr. Li are two of the primary decision-makers of MineOne Wyoming Data Center LLC and Terra Crypto Inc. Their testimony is critical. They were the two men who anticipatorily repudiated BCB's DHS Agreement with their March 13, 2023 take-it-or-leave-it Proposal to BCB, a "Proposal" Dr. Li earlier told Dr. Rengifo that BCB "will have no choice" but to accept.

opportunity to read, let alone digest, Dr. Rengifo's extensive deposition testimony, or incorporate his most important testimony into a Summary Judgment Memorandum.

11. Third, Patrick Murphy first received the deposition transcript of Yiliang Guo at 11:57 a.m. Mountain on October 3, 2024. Mr. Murphy has had no time or opportunity to read, let alone incorporate, the important deposition testimony of Mr. Guo. Mr. Guo, in his deposition, rebutted any notion that BitMain Georgia ever expressed any desire, to Dr. Rengifo or Dr. Li, that BitMain Georgia wanted MineOne to remove BCB as the host and operator in Phase 2 at North Range. BCB and its counsel need more time to incorporate Mr. Guo's important testimony in any summary judgment memorandum.
12. Fourth, on Sunday morning, September 29, 2024 two days after Patrick Murphy deposed Dr. Rengifo and one day before MineOne was going to take the deposition of BCB's Emory Patterson on the September 30 deposition discovery cutoff, Ms. Colbath called Patrick Murphy, and spoke with Mr. Murphy, as Mr. Murphy was headed into 8:30 a.m. Mass at Our Lady of Fatima in Casper. Importantly, Ms. Colbath asked that she postpone her 9/30/24 deposition of Emory Patterson so that the Parties themselves – Michael Murphy for BCB and Erick Rengifo/Jiaming Li for the MineOne Defendants – could have face-to-face, direct settlement negotiations between themselves, without lawyers – to seek to settle this case. Patrick Murphy fully agreed with Ms. Colbath. And, later that Sunday afternoon, Michael Murphy and Dr. Rengifo had the first of multiple Rule 408 Zoom

settlement meetings and negotiations. In that Sunday morning call, Ms. Colbath asked, and Mr. Murphy agreed, to vacate the 9/30/24 deposition of Emory Patterson to allow the Parties (and their counsel, behind the scenes) to devote their efforts to trying to seek a global settlement and resolution of everything in this litigation. Patrick Murphy agreed that he would provide Mr. Patterson for a deposition at a mutually convenient date, later in October, should the Parties not be able to reach a settlement in the coming week, or early next week. *See “Exhibit A.”* Earlier this week, Patrick Murphy told Paula Colbath he could provide BCB founding member Emory Patterson for his deposition on October 15, 2024.

13. As noted in the companion *First Expedited Motion*, Michael Murphy, Emory Patterson, Erick Rengifo and Jiaming Li have diligently pursued their face-to-face Zoom settlement negotiations. Last night at 8:51 p.m. Mountain, Michael Murphy e-mailed Dr. Rengifo, Dr. Li and Paula Colbath with a near-complete draft of the written settlement agreement Michael Murphy had been drafting all day on Wednesday, October 2, 2024. And Michael Murphy has had three (3) follow-up Zoom settlement calls with Dr. Rengifo early Thursday morning, October 3, to discuss and continue working on the final terms of that proposed settlement agreement.
14. Yet, in spite of this history, counsel for the MineOne Defendants suddenly changes course and seemingly will not now consent that the case deadlines in Paragraph 2 above be extended by three weeks. Marc Gottlieb and his clients still agree these case deadlines should be pushed back by three weeks, but Ms. Colbath does not.

15. Patrick Murphy has had a series of conferral e-mails with MineOne's counsel, Paula Colbath, about this issue this week. Mr. Murphy has asked Ms. Colbath to please call Mr. Murphy to further discuss this issue, but Ms. Colbath has not called Mr. Murphy.
16. When Mr. Murphy sent his final conferral e-mail to Ms. Colbath at 9:38 Mountain last night on this issue, Mr. Murphy wrote:

And finally, you already agreed to the three-week push back on all the briefing deadlines. In fact, you proposed it! Then, in my Response, I agreed with it. Then, in our September 26 oral arguments, we both told/asked Judge Johnson to push back those deadlines by three weeks. I relied on your representation that those deadlines be extended three weeks. You still need to depose Emory Patterson (if we don't settle). And both of us want to incorporate Emory's testimony into our dispositive motions. And, despite Judge Hambrick's Order, three weeks ago, that you provide me available dates for Jiaming's deposition and Haku Du's deposition, you have never provided me with any dates. I need their deposition testimony for BCB's dispositive motions.

Simply stated, I again ask that you please consent to us filing — tomorrow morning — the Stipulated Motion [and proposed Order] I sent you earlier today to move those briefing deadlines back by three weeks.

Thank you, Paula.

See “Exhibit B.”

Then Ms. Colbath wrote her e-mail reply to Patrick Murphy earlier this morning (October 3).

We must continue the litigation and meet our current deadlines. Trial preparation must continue, as the clock is ticking and there's no assurance of

a settlement. There's simply no reason that the lawyers cannot file the required papers, while the clients explore settlement options. Given the decisions the Court needs to make and our fast-approaching trial date and required pretrial filings, we must continue on two tracks (and I know you understand that). Let's get Mr. Patterson's deposition rescheduled. Let's file our motion papers so Judge Johnson can begin to make the necessary pre-trial decisions. The motion to compel is a motion the MineOne Defendants will ask Judge Johnson to expedite [a] decision on since we need the withheld documents for our trial preparation. Please do not continue to stall your opposition papers on this motion.

See “Exhibit C.”

17. Ms. Colbath dodged Mr. Murphy's specific request that she (again) consent to pushing back the above-stated briefing deadlines by three weeks. And she provided no meaningful explanation for why these briefing deadlines should not be extended by three weeks.
18. For all the reasons expressed in this *Second Expedited Motion* and the *First Expedited Motion*, BCB and its counsel are not able to write, finalize and file BCB's thoughtful and complete dispositive motions by October 4, 2024. BCB and its counsel need three extra weeks – following completion of the Patterson, Li and Du depositions and receipt of Dr. Rengifo's deposition transcript – to thoughtfully and fully brief BCB's dispositive motions.

WHEREFORE, in what once was – and still should be – an agreed and stipulated request to push back the specific case deadlines in Paragraph 2 above, BCB and its counsel respectfully request that the Court quickly enter its Order extending the aforementioned

specific briefing deadlines by three weeks. A [proposed] Order is attached for the Court's convenience.

DATED this 3rd day of October 2024.

BCB CHEYENNE LLC d/b/a
BISON BLOCKCHAIN, Plaintiff

By: /s/ Patrick J. Murphy
Patrick J. Murphy (WSB No. 5-1779)
Scott C. Murray (WSB No. 7-4896)
WILLIAMS, PORTER, DAY & NEVILLE, PC
159 N Wolcott St. Suite 400
Casper, WY 82601
Ph: (307) 265-0700
pmurphy@wpdn.net
smurray@wpdn.net

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing document was served upon counsel as indicated below this 3rd day of October 2024.

Sean M. Larson, WSB No. 7-5112	<input type="checkbox"/> U.S. Mail (prepaid)
Kari Hartman, WSB No. 8-6507	<input checked="" type="checkbox"/> CM/ECF Electronic Transmission
HATHAWAY & KUNZ, LLP	<input type="checkbox"/> Overnight Delivery
P.O. Box 1208	<input type="checkbox"/> Hand Delivery
Cheyenne, WY 82001	<input type="checkbox"/> Electronic Mail
slarson@hkwyolaw.com	
khartman@hkwyolaw.com	
Marc S. Gottlieb	<input type="checkbox"/> U.S. Mail (prepaid)
ORTOLI ROSENSTADT, LLP	<input checked="" type="checkbox"/> CM/ECF Electronic Transmission
366 Madison Avenue, 3rd Floor	<input type="checkbox"/> Overnight Delivery
New York, NY 10017	<input type="checkbox"/> Hand Delivery
msg@orllp.legal	<input type="checkbox"/> Electronic Mail
Meggan J. Hathaway	<input type="checkbox"/> U.S. Mail (prepaid)
Jane M. France	<input checked="" type="checkbox"/> CM/ECF Electronic Transmission
SUNDAHL, POWERS, KAPP & MARTIN, LLC	<input type="checkbox"/> Overnight Delivery
500 W. 18 th Street, Ste. 200	<input type="checkbox"/> Hand Delivery
Cheyenne, WY 82003	<input type="checkbox"/> Electronic Mail
mhathaway@spkm.org	
jfrance@spkm.org	
Paula Colbath, <i>Pro Hac Vice</i>	<input type="checkbox"/> U S. Mail (prepaid)
Alex Inman, <i>Pro Hac Vice</i>	<input checked="" type="checkbox"/> CM/ECF Electronic Transmission
David Forrest, <i>Pro Hac Vice</i>	<input type="checkbox"/> Overnight Delivery
Leily Lashkari, <i>Pro Hac Vice</i>	<input type="checkbox"/> Hand Delivery
LOEB & LOEB LLP	<input type="checkbox"/> Electronic Mail
345 Park Avenue New York, NY 10154	
pcolbath@loeb.com	
ainman@loeb.com	
dforrest@loeb.com	
llashkari@loeb.com	

By: /s/ Patrick J. Murphy
Patrick J. Murphy